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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Eric Alan Sanders, on behalf of dependents SK
Sanders, EA Sanders II, and ZM Gray-Sanders
P.O. Box 885
Barnwell, SC 29812
803-814-3631
eric.store416@gmail.com

-against-

Walter C Herin Jr; LaNieta Carter; SC ODAR
(South Carolina Office of Hearings Operations);
Disability Determination Services (South Carolina
Vocational Rehabilitation Department); H Corn
(Disability Examiner)

Defendants.

**Complaint for Violation of Civil
Rights**

(Non-Prisoner Complaint)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

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NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Eric Alan Sanders et al
Street Address	P.O. Box 885
City and County	Barnwell, Barnwell County
State and Zip Code	South Carolina 29812
Telephone Number	803-814-3631

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Walter C Herin Jr
Job or Title	Administrative Law Judge
Street Address	101 Executive Center Drive, Suite 215
City and County	Columbia, Richland County
State and Zip Code	SC 29210-8411
Telephone Number	_____
<input checked="" type="checkbox"/> Individual capacity	<input checked="" type="checkbox"/> Official capacity

Defendant No. 2

Name	SSA Office of Hearings Operations (a.k.a. SC ODAR)
Job or Title	
Street Address	101 Executive Center Drive, Suite 215
City and County	Columbia, Richland County
State and Zip Code	SC 29210-8411
Telephone Number	_____

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x Individual capacity x□ Official capacity

Defendant No. 3

Name Disability Determination Services (South Carolina Vocational Rehabilitation Department)

Job or Title _____
(if known)

Street Address P.O. Box 80

City and County West Columbia, Richland County

State and Zip Code SC 29171-0080

Telephone Number _____

x	Individual capacity	x	Official capacity
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Defendant No. 4

Name LaNieta Carter

Job or Title	Hearings Director
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Street Address 101 Executive Center Drive, Suite 215

City and County Columbia, Richland County

State and Zip Code SC 29210-8411

Telephone Number _____

x	Individual capacity	x	Official capacity
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Defendant No. 5

Name H. Corn

Job or Title Disability Examiner

Street Address P.O. Box 3090

City and County Greenville

State and Zip Code SC 29602

Telephone Number _____

x	Individual capacity	x	Official capacity
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II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

☒ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Count 1 – Violation of his First Amendment Right to Petition the Government

Count 2 – Violation of his Fourteenth Amendment Rights (Due Process Clause and Equal Protection Clause)

Count 3 – Violation of Rights Under 42 U.S.C. § 1981(a) to “sue, be a party, and present evidence, and equal protection of laws...”

Count 4 – Violation of 42 U.S.C. § 35.130(a), the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132

Count 5 – Violation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794_

Count 6 – *Bivens* Claim (*Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971))

Count 7 – Federal Torts Claims Act, with exhaustion of administrative remedies and right to seek judicial review on July 31, 2018.

Count 8 – Violation of Plaintiff’s Eighth Amendment Right (Excessive Fines, Punishments, etc.)

Count 9 - Conspiracy to Interfere With Civil Rights, 42 U.S.C. § 1985(2) (Obstructing justice; intimidating party or witness)

Count 10 – Conspiracy to Interfere With Civil Rights, 42 U.S.C. § 1985(3) (Depriving persons of rights and privileges)

1 Count 11 – Action for neglect to prevent, 42 U.S.C. § 1986.

2 Count 12 – Creation of Remedies, Declaratory Judgment Act, 28 U.S.C. 2201.

3 C. Plaintiffs suing under *Bivens* may only recover for the violation of certain
4 constitutional rights. If you are suing under *Bivens*, what constitutional right(s)
5 do you claim is/are being violated by federal officials?

6 See B.

7 D. Section 1983 allows defendants to be found liable only when they have acted
8 “under color of any statute, ordinance, regulation, custom, or usage, of any State
9 or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing
10 under section 1983, explain how each defendant acted under color of state or local
11 law. If you are suing under *Bivens*, explain how each defendant acted under color
12 of federal law. Attach additional pages if needed.

13 See Statement of Facts.

14 **III. Statement of Claim**

15 State as briefly as possible the facts of your case. Describe how each defendant was
16 personally involved in the alleged wrongful action, along with the dates and locations of
17 all relevant events. You may wish to include further details such as the names of other
18 persons involved in the events giving rise to your claims. Do not cite any cases or
19 statutes. If more than one claim is asserted, number each claim and write a short and
20 plain statement of each claim in a separate paragraph. Attach additional pages if needed.

21 **STATEMENT OF FACTS**

- 1 1. The following statements are made without regard to any reasonable accommodations
2 under Title I and V of the ADA and whether the Plaintiff is a qualified individual under
3 that statute.
- 4 2. Plaintiff incorporates by reference the Social Security Administrations complete record
5 concerning his applications for benefits to it, all documents mentioned herein, and his
6 Complaint/Exhibits filed in Sanders v. Commissioner of Social Security, District Court,
7 District of South Carolina, C/A 0:18-cv-03070-JMC-PJG.
- 8 3. I am a qualified individual with mental impairments including, but not limited to: Bipolar
9 I disorder, severe with psychotic features (paranoid thought content), Obsessive-
10 compulsive disorder, Paranoid personality disorder; Body dysmorphia, chronic fatigue,
11 etc.
- 12 4. Defendants are “public entities,” as defined by Title II of the ADA, and “programs or
13 activities” as defined by 29 U.S.C. § 794(b)(1)(A).
- 14 5. I applied for social security benefits in June 2015 and exhausted all available
15 administrative remedies by filing a request for review of denial of benefits with the
16 Appeals Council, receiving notice of denial of review on October 26, 2018.
- 17 6. I allege that the Commissioner, based on a report from a vocational expert, found that
18 Plaintiff has “medically determinable impairment[s] [12.04 – *Affective Disorders*, 12.06 –
19 *Anxiety-Related Disorders*, and 12.08 – *Personality Disorders*]...present that [fail to]
20 satisfy the diagnostic criteria...”
- 21 7. However, Plaintiff argues that the Commissioner failed to consider evidence of
22 (Paragraph B) functional limitations including substantially limited social functioning,
23 due to severe agoraphobia (social anxiety and fear of leaving the house), in the areas of
24 shopping, taking public transportation, and using the post office.
- 25 8. Dr. Caleb Loring, IV, Psy. D., during Plaintiff’s mental status exam, conducted in
26 September 2015, diagnosed Plaintiff with Paranoid personality disorder and documented
27 an opinion that “[Plaintiff] would most likely have a difficult time working at a job with
28 public contact.”
- 29 9. The Plaintiff presented a declaration from his mother stating that he does not leave the
30 house, she has to do all of the shopping and mailing activities. She also declared that
31 Plaintiff was antisocial, socially isolated, and had no friends.

- 1 10. The Plaintiff also presented new evidence, on appeal, from his treating therapist, Dr.
2 Cathy Lebeaux, MS, MA, LPC, BC-DMT, that “[p]er the Adult Self-Report Scale
3 (ASRS-v.1.1), [Plaintiff’s] score indicated that [he] do[es] have ADD and have trouble
4 focusing, concentrating, and staying on task...” in February 2016.
- 5 11. The Plaintiff argues the Commissioner ignored medical records/documentation, from
6 Aurora Pavillion Behavioral Services (Aiken, SC), of Plaintiff’s need for a more
7 structured psychological support system – involuntary hospitalizations occurring in
8 January 2011 , April 2012, and March 2013 (March 30, 2013 – April 10, 2013). Also,
9 Plaintiff was deemed disabled as a minor from 1996 until around 2003 – a material fact
10 ignored by the Commissioner.
- 11 12. Plaintiff argues that he has avoided further hospitalization by maintaining a structured
12 setting at home to reduce the mental demands on himself by isolating himself from
13 friends, family, the public; rarely interacting with the public in person or over the phone,
14 not going shopping or social gatherings, and depended on his family members to shop for
15 him and mail items for him.
- 16 13. The Plaintiff’s current period of decomposition has lasted from May 26, 2015 until the
17 present. During this period, Plaintiff attempted to complete a semester of college (a work
18 or vocational attempt) in March 2016; however, he had to withdraw due to his
19 concentration issues, agoraphobia, and social anxiety in April 2016.
- 20 14. The Plaintiff argues that chronic schizophrenic, paranoid, or other psychotic disorders
21 meet the criteria of steps two - § 404.1520(c) - and three - §§ 404.1520(d), 404.1525,
22 404.1526 - of the SSA’s five-step procedure and the Commissioner erroneously
23 considered and denied Plaintiff’s claim for benefits based on findings concerning steps
24 four and five.
- 25 15. Findings of the ALJ with the Appeals Counsel Affirming
- 26 16. First, the Plaintiff argues the Administrative Law Judge, Walter C. Herin Jr., abused his
27 discretion and made an error of law by failing to find Plaintiff disabled at step three, or
28 under §§ 404.1520(d), 404.1525, 404.1526, or eligible for benefits without having to
29 meet the criteria in steps four and five.
- 30 17. The Plaintiff argues that his mental impairments (agoraphobia, ADD, schizophrenia, Bi-
31 Polar, severe with psychotic features (paranoid thought content), Paranoid personality
32 disorder, Body dysmorphia, etc.) combined with physical impairments (chronic lumbar
33 sprain, bulging disc, chronic fatigue, bilateral knee pain, meniscus tear, small focal

1 cartilage defect of the central grove of the trochlear cartilage) should easily satisfy the
2 criteria of step three.

3 18. Second, Judge Herin ruled:

4 19. I...find there is no good cause for the claimant's failure to appear at the time and place of
5 hearing...[t]he claimant has refused to cooperate with the State agency's attempt to
6 schedule a consultative examination, and with the Hearing Office's attempt to schedule
7 his hearing...[t]he claimant has not provided any evidence to establish the extraordinary
8 circumstances that would justify conducting the hearing via telephone, as there is no
9 evidence of any mental health treatment or other treatment of any kind for approximately
10 two years...[a]ccordingly, the request for hearing dated April 14, 2016 is dismissed and
11 the determination dated January 27, 2016 remains in effect."

12 20. However, Plaintiff asserts he submitted a medical record from his treating therapist, Dr.
13 Cathy Lebeaux, dated November 6, 2016, confirming that [Plaintiff] did seek outpatient
14 psychotherapy for depression and social anxiety."

15 21. The Plaintiff argues the factual finding of Judge Herin is therefore clearly erroneous since
16 the hearing date was April 30, 2018 and the medical record from Dr. Lebeaux would be
17 valid until November 6, 2018, seven months after the hearing in his matter.

18 22. Third, the Plaintiff asserts that an "extraordinary circumstance" existed that would justify
19 Plaintiff's timely request for reasonable modification and conducting the hearing via
20 telephone – Plaintiff's diagnosis of agoraphobia (social anxiety and fear of leaving the
21 house) and body dysmorphia (altered perception of his physical appearance). The
22 Plaintiff asserts Dr. Caleb Loring, the Commissioner's own expert, diagnosed Plaintiff
23 with both conditions on or around 9/15/15.

24 23. The Plaintiff submitted a reasonable modification request, as early as June 28, 2017,
25 asking to appear by telephone at the hearing because his body dysmorphia would not
26 allow him to participate via teleconference and his agoraphobia would not allow him to
27 travel the 120 mile round trip to Columbia, SC or Augusta, GA to appear in person at a
28 hearing.

29 24. The Plaintiff also made a request for reasonable modification (*Exhibits B13B, B14B, and*
30 *B15B*), under *Title II of the ADA*, to the State agency to have a consultative examination,
31 scheduled for August 2017, to be conducted via telephone. The State Agency completely
32 ignored Plaintiff's reasonable modification request, did not address it before the date of
33 the examination, and did not contact the Plaintiff in regards to his timely request for

1 reasonable modification for the appointment. However, Plaintiff, in good faith, called the
2 doctor and presented over the telephone for examination but the doctor stated the State
3 Agency made no arrangements for a telephonic examination.

4 25. Judge Herin refused to address these request for reasonable modification before his
5 October 30, 2017 or April 30, 2018 hearings. Judge Herin waited until after the date of
6 the hearings had passed to address the request and failed to engage in the interactive
7 process before the hearings.

8 26. Further, Plaintiff timely requested an expedited hearing/compassionate determination in
9 July 28, 2017 due to danger of losing his home due to inability to pay property taxes
10 which the Commissioner's office completely ignored. Had the request been granted,
11 Plaintiff's medical records would have clearly satisfied the 2-year requirement.

12 27. Judge Herin intimidated, harassed, discriminated against, and retaliated against Plaintiff
13 by calling him on the date of the hearing, October 17, 2017, by being verbally abusive to
14 him, berating him, and attempting to intimidate him for exercising his rights under Title
15 II of the ADA and 29 U.S.C. § 794.

16 28. Appeals Council Findings

17 29. The Appeals Council's Notice of Dismissal states:

18 30. "With your request for review, you alleged that the Administrative Law Judge has
19 defrauded from receiving benefits, intentionally delayed your claim and discriminated
20 against you refusing to provide you with reasonable accommodations...[u]nder our rules
21 described below, we considered your allegations solely as they relate to your case for
22 abuse of discretion...[a]fter reviewing the entire record...we determined that the
23 Administrative Law Judge did not abuse his...discretion and none of the other reasons in
24 our rules existed to review your case..."

25 31. Plaintiff asserts that the Appeals Council's ruling that Plaintiff only raised a due
26 process/abuse of discretion issue is clearly erroneous, Plaintiff clearly asserted that Judge
27 Herin's ruling was an error of law by stating, on his Form HA-520-US, that, "I have not
28 worked since June 2015 (Step One)/ §404.1526 listed impairments (Step Three) limit
29 basic work activities (Step Two)."

30 32. First, the Plaintiff asserts the Commissioner made a legal error by failing to
31 grant benefits under Step 3 (under §§ 404.1520(d), 404.1525, 404.1526) and
32 Plaintiff contends his mental impairments are listed in the SSA list. Plaintiff

1 asserts that he eligible for benefits due to satisfying the first 3 steps without
2 more.

3
4 33. Second, the Commissioner contends that Judge Herin did not abuse his
5 discretion because of his assertion that:

6
7
8 34. By letter dated November 21, 2017, Hearing Office Director Carter offered
9 several options to the claimant to reasonably accommodate his request
10 (Exhibit B18B)...[s]he emphasized the Agency needed medical
11 documentation to establish his eligibility for a reasonable accommodation,
12 and also needed current medical evidence to properly assess his claim for
13 disability benefits...I note that the most recent evidence in the filed dated in
14 early 2016...[t]hat is why I requested a consultive psychological
15 examination of the claimant..."

16
17 35. However, this finding is clearly erroneous. Federal disability laws clearly
18 state that a qualified individual cannot be coerced into accepting a
19 reasonable modification that he or she does not want or chooses not to
20 accept. See *42 U.S.C. § 12201 (d)* and *42 U.S.C. § 35.130 (e)(1)*

21
22
23 36. The Plaintiff asserts, once again, that he gave constructive notice to the
24 Commissioner, as of July 25, 2017, 4 months before his first scheduled
25 hearing, of his need for reasonable modification to the agency's procedures
26 to attend his hearings via telephone.

27
28 37. The Plaintiff certified mailed a subsequent request for reasonable
29 accommodation on October 1, 2017 requesting that Defendants allow him to
30 participate in the October 17, 2017 via telephone and requested Defendants
31 enter into the interactive process so that we can discuss any form of
32 accommodation that will allow me to participate in the[ir] proceedings."

33
34 38. The record demonstrates that relating to both hearings, the October 30th
35 hearing and the April 30th hearing, Judge Herin ignored the request for
36 reasonable modification and refused to enter the interactive process before
37 said hearings.

38
39 39. Relating to the Hearing Officer Director Carter's alternative

1 accommodations, the offer did not demonstrate good faith because it came a
 2 month after my first hearing was scheduled. Further, the alternative
 3 accommodation to “schedule an in-person hearing during the late
 4 afternoon,” still required the Plaintiff to leave his home and to interact with
 5 others in a public setting despite the severity of his agoraphobia, severe
 6 social anxiety, and paranoid personality disorder.

7
 8 40. Most importantly, the Plaintiff did not want the alternative accommodations
 9 and his request for a hearing via telephone did not fundamentally alter the
 10 services offered by the agency.

11
 12
 13 41. The Agency’s claim that it needed an in-person hearing, consultative
 14 examination, and medical documentation “to establish that [Plaintiff is] a
 15 qualified individual with a disability with limitations that require a
 16 reasonable accommodation...” is belied by report of the agency’s own
 17 expert, Dr. Caleb Loring, that clearly documented Plaintiff’s substantially
 18 limited ability to interact with others in a public setting.

19
 20 42. Further, the absence of medical evidence or examinations does not mean
 21 Plaintiff’s conditions are no longer disabling. The Plaintiff can produce
 22 medical evidence documenting his history of noncompliance with mental
 23 health treatments as a symptom of his mental illness, in the past leading to
 24 hospitalization.

25
 26 43. Schizophrenia, Bi-Polar with Mania, etc. are lifelong, permanent conditions
 27 with no known cure and Plaintiff has suffered with the symptoms of these
 28 conditions since 1996 and been attested to by at least 5 psychologists.

29
 30 44. The Plaintiff asserts that Judge Herin failed to give weight to the opinions of
 31 Plaintiff’s treating physicians and gave weight to a physician who never
 32 examined Plaintiff, failed to build an accurate and logical bridge from the
 33 evidence to his conclusions, and failed to include a “narrative discussion
 34 describing how the evidence support’ his ‘explanation of the varying
 35 degrees of weight he gave to differing opinions concerning [the claimant’s]
 36 conditions and limitations.” *Woods v. Berryhill* (CA4 2018)

37
 38 45. Mandamus Jurisdiction Under 28 U.S.C. § 1361 and Review of Agency
 39 Action under 5 U.S.C. § 704

1
2 46. Plaintiff argues that his claim presents a challenge to a Social Security
3 regulation under § 405(g) that is collateral to the substantive claim and
4 presents a colorable constitutional claim.
5

6 47. Plaintiff argues, on multiple occasions during multiple applications to the
7 Social Security Administration, since 2011, been denied equal protection
8 and due process and that the procedural safeguards were constitutionally
9 inadequate because the agency refuses to make modification to its procedure
10 and policies requiring a claimant to appear in-person for a hearing.
11

12 48. Plaintiff argues that the agency's procedures favor claimant with physical
13 disabilities or mental disabilities that do not substantially limit their ability
14 to interact with other in public settings or to leave their homes. Plaintiff
15 asserts that he and other claimants diagnosed with agoraphobia, social
16 anxiety, paranoid personality disorder whose disorders substantially limit
17 their ability to leave the house and interact with others in public settings are
18 severed from the benefits and services of the agency – specifically, the
19 ability to participate in hearings before an administrative law judge.
20

21 49. The Plaintiff asserts the agency had a nondiscretionary duty under the
22 Americans with Disabilities Act, the First Amendment, the Fourteenth
23 Amendment, etc. to provide a reasonable modification to its policies and
24 procedures and failed to do so.
25

26 50. The Plaintiff faxed a written request to Defendants on July 25, 2017
27 requesting subpoenas to various medical providers to obtain medical
28 evidence necessary to decide Plaintiff's claim for social security benefits.
29

30 51. Defendants neither provided the requested subpoenas nor provided
31 the Plaintiff with the requested records before conducting the hearing on
32 October 17, 2017.
33

34 52. Plaintiff asserts he was denied due process as a result of being
35 denied the requested subpoenas, denied equal protection of laws, denied
36 rights under his First Amendment right to petition the government and under
37 42 U.S.C. § 1981(a) denied the right to be a party and present evidence.
38

39 53. Plaintiff asserts he was denied due process under the SSA's own 5-

1 step Sequential process by not being found to be disabled without more, and
2 being forced to prove his disability under the 5th Step – which defendant had
3 the burden to prove.
4

5 54. Plaintiff asserts that Defendants' adverse actions against him, since
6 2011, represent a policy, practice, and pattern motivated by and based on
7 discriminatory animus against claimants with mental impairments or
8 disabilities.
9

10 A. Where did the events giving rise to your claim(s) occur?

11 See Above.

12 B. What date and approximate time did the events giving rise to your claim(s) occur?

13 See Above.

14 C. What are the facts underlying your claim(s)? *(For example: What happened to*
15 *you? Who did what? Was anyone else involved? Who else saw what happened?)*

16 See Above.

1 **IV. Injuries**

2 If you sustained injuries related to the events alleged above, describe your injuries and
3 state what medical treatment, if any, you required and did or did not receive.

4 The Plaintiff is suffering irreparable harm as a result of the denial of his benefits based on
5 his need for reasonable modifications and his mental disabilities in that he has been
6 denied SNAP benefits under the Department of Social Services's ABAWD policy (Able-
7 Bodied Adult) and cannot obtain a discharge of his student loans without a declaration
8 from the agency of a disabled status.

9
10 The Plaintiff has suffered Irreparable harm due to the denial of constitutional rights under
11 the First, Eight, and Fourteenth Amendment of the Constitution.

12
13 Also, due to Plaintiff's period of decomposition, he is completely indigent, in need of
14 assistance with shopping and other activities requiring him to enter the public, cannot
15 support his three minor children and they are forced to go without basic necessities.

16
17 As a result of his symptoms and inability to work, as well as his inability to afford his
18 light bill, with services being disconnected in January 2017, his wife has separated from
19 him and moved to another state.

20
21 The Plaintiff has had to move in with a family member and cannot afford to
22 independently live in his own home due to inability to pay the costs of utility services,
23 with his electricity being cut off in January 2017 due to inability to pay a past due
24 balance of \$500.00.

25 The Plaintiff is seeking \$76,000 in legal fees, compensatory damages, punitive damages,
26 and all allowable financial damages against Defendants for:

27 Emotional Distress, Depression, Anxiety; Sleeplessness, Manic Episodes, Denial
28 of Medicare and Medical Insurance; Pain and Suffering due to inability to pay for
29 medical treatments. Loss of SNAP/EBT/Medicaid benefits due to an inability to
30 receive a favorable disability determination from the Social Security
31 Administration. The Plaintiff has suffered irreparable harm due to the denial of
32 constitutional rights under the First, Eight, and Fourteenth Amendment of the
33 Constitution.

1 **V. Relief**

2 State briefly what you want the court to do for you. Make no legal arguments. Do not
3 cite any cases or statutes. If requesting money damages, include the amounts of any
4 actual damages and/or punitive damages claimed for the acts alleged. Explain the basis
5 for these claims.

6 **Irreparable Harm**

7
8 The Plaintiff is suffering irreparable harm as a result of the denial of his
9 benefits based on his need for reasonable modifications and his mental disabilities
10 in that he has been denied SNAP benefits under the Department of Social
11 Services's ABAWD policy (Able-Bodied Adult) and cannot obtain a discharge of
12 his student loans without a declaration from the agency of a disabled status.

13
14 The Plaintiff has suffered Irreparable harm due to the denial of
15 constitutional rights under the First, Eight, and Fourteenth Amendment of the
16 Constitution.

17
18 Also, due to Plaintiff's period of decomposition, he is completely indigent,
19 in need of assistance with shopping and other activities requiring him to enter the
20 public, cannot support his three minor children and they are forced to go without
21 basic necessities.

22
23 As a result of his symptoms and inability to work, as well as his inability to
24 afford his light bill, with services being disconnected in January 2017, his wife has
25 separated from him and moved to another state.

26
27 The Plaintiff has had to move in with a family member and cannot afford to
28 independently live in his own home due to inability to pay the costs of utility
29 services, with his electricity being cut off in January 2017 due to inability to pay a
30 past due balance of \$500.00.

31
32 **Injunctive Relief**

33
34 The Plaintiff moves the Court to enter preliminary injunctive relief requiring the agency
35 to provide the Plaintiff with a reasonable modification: to make any future appearances at any
36 hearing; to file a new application for benefits; to be examined by a medical examiner; or to
37 obtain any services or benefits from the Social Security Administration via telephone, and to
38 excuse him from appearing in person.

1 The Plaintiff asserts that granting the injunctive relief is in the public interest as it will
 2 fulfill the will of Congress to prevent systematic discrimination against individuals with
 3 mental/physical impairments, as expressed in 42 U.S.C. § 12132 and 29 U.S.C. § 794. Requiring
 4 the State Agencies processing claims for social security benefits to strictly adhere to the SSA's
 5 Five-step Sequential Process, especially granting benefits at Step 3, without more, will promote
 6 efficient and orderly administration of the process and the agencies resources, reducing
 7 unnecessary costs such as expert testimony from vocational experts regarding the 5th Step of the
 8 5-Step Sequential Process and unnecessary medical consultations – the balance of equity tips in
 9 favor of granting the injunction.

10 Plaintiff asserts that the merits of his claims are based on facts that cannot be disputed
 11 and can derive directly from the Defendants' own files - there is a great likelihood of success of
 12 the claims.

13 Declaratory Relief – Creation of Remedies

14
 15 The Plaintiff is seeking declaratory relief from the Court and creation of
 16 remedies by the Court declaring:

- 17
 18 1. Defendants violated Plaintiff's constitutional rights under the First,
 19 Eight, and Fourteenth Amendments.
- 20 2. Defendants discriminated against Plaintiff based on his mental
 21 impairments in violation of 42 U.S.C. § 12132 and 29 U.S.C. § 794.
- 22 3. Claimants, with mental and physical impairments that substantially
 23 limit major life activities, such as interacting without others, etc. are
 24 entitled to reasonable modifications of a State agency's policies,
 25 customs, and procedures at all levels of administrative activities
 26 relating to applications for benefits under 42 U.S.C. § 405(g).
- 27 4. State agencies processing and administrative activities, relating to
 28 benefits under 42 U.S.C. § 405(g), shall not discriminate, intimidate,
 29 harass, or retaliate against any qualified individual with a disability
 30 for asserting their rights under Title II of the ADA or 29 U.S.C. §
 31 794.

- 1 5. 42 U.S.C. § 12132 and 29 U.S.C. § 794 are applicable to all
2 administrative activities relating to an application of benefits under
3 42 U.S.C. § 405(g) and to all stages that a claimant must proceed
4 through to exhaust administrative procedures.
5 6. In attempting to provide reasonable modifications to procedures and
6 policies, State Agencies shall not intimidate or harass into accepting,
7 or require qualified individuals with mental/physical impairments to
8 accept accommodations or modifications that they choose not to
9 accept or do not desire. See 42 U.S.C. § 12201 (d) and 42 U.S.C. §
10 35.130 (e)(1)
11 7. Defendants shall not evaluate and force a claimant to prove that they
12 are disabled based on steps 4 or 5 in its sequential process if they
13 qualify for benefits under step 3 of its sequential process, without
14 proving more.

15
16 Trial by Jury

17
18 I am requesting a trial by jury in accordance with *Federal Rule of Civil*
19 *Procedure, Rule 38* and the *Seventh Amendment to the Constitution* on all claims.

20 Class Certification

21 I am seeking a class certification for all similarly situated claimants for
22 social security benefits who were denied reasonable modifications to Defendants'
23 rules, policies, and procedures to attend administrative hearings via telephone if
24 they cannot attend via teleconference or in-person due to substantial limitations
25 caused by mental or physical impairments. Also, I file this claim and asks that a
26 class be certified based on all claimants who qualified for benefits under Step 3 of
27 the 5-Step Sequential Process, but were forced to attend further medical
28 examinations, etc. and required to prove disability based on the Fourth and Fifth
29 Step.

30 **VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5/20/, 2019

Signature of Plaintiff Eric A. Sanders

Printed Name of Plaintiff Eric A. Sanders

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

Telephone Number _____

E-mail Address _____